RECENT DECISIONS

CONSTITUTIONAL LAW—STATUTE EXEMPTING CERTAIN INSURANCE POLICIES FROM LIABILITY TO DEBTS IMPAIRS OBLIGATION OF CONTRACT.—While indebted to the plaintiff the decedent took out a life insurance policy payable to his estate. Some time later the Louisiana Legislature undertook to exempt the avails of life insurance payable to an insured's estate from the claims of his creditors. The decedent's administratrix collected the insurance money, which the plaintiff sought to subject to his claim, maintaining that the exemption of the act above mentioned impaired the obligation of his contract. *Held*, plaintiff could recover. *Bank of Minden* v. *Clement*, 41 Sup. Ct. 408.

When one takes out an insurance policy upon his life, payable to his estate, it becomes his property and as such is subject to the claims of his creditors. *People* v. *Phelps*, 78 Ill. 147; *Rice* v. *Smith*, 72 Miss. 42, 16 So. 417; *Blinn* v. *Dame*, 207 Mass. 159, 93 N. E. 601, 20 Ann. Cas. 1184.

A contract is considered as being impaired when its value is diminished, or any part of its obligation is released. *Sturges* v. *Crowninshield*, 4 Wheat. (U. S.) 122 at 197; *Planters' Bank* v. *Sharp*, 6 How. (U. S.) 301 at 327.

Any statute undertaking to exempt the proceeds of a life insurance policy payable to the insured or his estate, which has matured by the expiration of some specified period or by the death of the insured, from the claims of antecedent debts, clearly impairs the contract of such debts and so is void as to them. *In re Heilbron*, 14 Wash. 536, 45 Pac. 153, 35 L. R. A. 602.

It is interesting to note that a number of States have passed statutes to change the rule of the common law permitting the creditors of the insured to subject the proceeds of a life insurance policy, payable to the estate of the insured, to their claims. These statutes give the widow, children, and next of kin the benefit of the proceeds of such policies free from the claims of creditors. In so far as such statutes apply to policies taken out subsequent to the enactment of the statute they are constitutional.

DIVORCE—CONDONATION—SUBSEQUENT OFFENSE.—While defendant and plaintiff were living together as husband and wife, the former committed an act of adultery. With full knowledge of the facts and acting on her own volition, plaintiff continued to live with the defendant for five years. During their cohabitation thereafter, he treated her with extreme cruelty, continued to consort with other women and finally deserted her. Plaintiff filed a petition for a divorce. Defendant set up plea of condonation. *Held*, divorce should be granted. *Bravo* v. *Bravo* (N. J.), 114 Atl. 790.

A voluntary resumption or continuance of cohabitation by one party to the marriage with knowledge that a matrimonial offense has been

committed by the other, operates as a condonation of the offense. *Phillips* v. *Phillips*, 102 Ark. 679, 144 S. W. 914; *Klekamp* v. *Klekamp*, 275 Ill. 98, 113 N. E. 852, Ann. Cas. 1918A, 663; *Day* v. *Day*, 71 Kan. 385, 80 Pac. 974, 6 Ann. Cas. 169. Condonation in divorce proceedings has the usual meaning of forgiveness and pardon, after full knowledge of the past wrong, on condition that it will not be repeated and that the offender shall thereafter treat the forgiving party with conjugal kindness. *Averbuch* v. *Averbuch*, 80 Wash. 257, 141 Pac. 701, Ann. Cas. 1916B, 873; *Weber* v. *Weber*, 195 Mo. App. 126, 189 S. W. 577; *Parker* v. *Parker* (Tex.)„ 204 S. W. 493. In cases of adultery condonation is more nearly conclusively presumed from cohabitation than in cases of cruelties or indignities. *Weber* v. *Weber*, *supra*. But an offense which has been condoned may be revived by a repetition of the same offense or of other marital offenses, and adultery will be revived by subsequent cruel and unkind treatment. *Fisher* v. *Fisher*, 93 Md. 298, 48 Atl. 833; *Kostachek* v. *Kostachek*, 40 Okl. 747, 140 Pac. 1021; *Langdon* v. *Langdon*, 25 Vt. 678, 60 Am. Dec. 296. To revive the original offense, the subsequent misconduct need not be such as in itself would justify a divorce. *Cochran* v. *Cochran*, 93 Minn. 284, 101 N. W. 179; *Jefferson* v. *Jefferson*, 168 Mass. 456, 47 N. E. 123; *Heist* v. *Heist*, 48 Neb. 794, 67 N. W. 790.

INTOXICATING LIQUORS—FORFEITURE OF VEHICLES IN WHICH LIQUOR IS BEING ILLEGALLY TRANSPORTED.—The defendant was tried and convicted of transporting spirituous liquors in violation of law. The automobile used by the defendant for transporting same, was seized by a sheriff and sought to be condemned and forfeited under the provisions of a statute providing that the right, title and interest of the defendant in and to the property so seized should be forfeited. The defendant had no right, title or interest in the automobile, but was merely an employee of the intervener, who had no knowledge that the automobile was being used for an unlawful purpose by the defendant. The intervener, who was not a defendant or party to the proceeding, filed a petition for a release of the automobile. *Held*, release granted. *State* v. *Johnson* (N. C.), 107 S. E. 433.

In the above case it will be observed that it was not the car itself which was sought to be condemned but the right, title and interest of the defendant in the car, which enabled the owner to intervene successfully.

The holdings in the federal cases are much more drastic since the property itself, merely the *res*, and not the defendant's right, title and interest therein is subject to condemnation and forfeiture, despite the innocence or want of knowledge of the owner, the proceeding being *in rem*. The holdings in these cases arose under statutes dealing with vehicles used in committing a fraud upon the revenue laws. *United States* v. *Mincey*, 254 Fed. 287, 5 A. L. R. 211; *United States* v. *Two Bay Mules*, 36 Fed. 84. Where a federal statute makes it a crime and provides a fine or imprisonment as the punishment for importing liquors into the United States, and makes no provision for the forfeiture of the vehicle